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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE
COMMISSION,
Applicant,
v.
ELON MUSK,
Respondent.

Case No. 3:23-mc-80253-LB
**ELON MUSK'S CIVIL LOCAL RULE
79-5(F) ADMINISTRATIVE MOTION
TO CONSIDER WHETHER ANOTHER
PARTY'S MATERIAL SHOULD BE
SEALED**

1 Elon Musk has filed certain exhibits to the Declaration of Alex Spiro in Support of Elon
 2 Musk's Opposition to the Securities and Exchange Commission's Notice and Application for an
 3 Order Compelling Compliance with an Administrative Subpoena ("Declaration"). Exhibits 3 and 5
 4 to the Declaration contain information related to a non-public investigation into Mr. Musk that the
 5 Securities and Exchange Commission ("Commission") initiated in 2022. These exhibits are
 6 confidential because the Commission has ordered that the investigation be private. Further,
 7 Commission investigation documents are non-public as a matter of law. *See* 17 CFR § 203.2
 8 ("Information or documents obtained by the Commission in the course of any investigation or
 9 examination, unless made a matter of public record, shall be deemed non-public . . ."); 17 CFR
 10 § 203.5 ("Unless otherwise ordered by the Commission, all formal investigative proceedings shall
 11 be non-public."); *see also* Attorney Declaration of Robin Andrews ¶¶ 2, 5.

12 The parties have not conferred on the confidentiality of these materials, and due to the
 13 imminent filing deadline it is impracticable for the parties to do so before the filing. Mr. Musk is
 14 therefore filing this Administrative Motion to provide the Commission an opportunity to file, within
 15 seven days, a statement or declaration pursuant to Civil Local Rule 79-5(f)(3) regarding whether
 16 and why the above-referenced materials, or specific portions thereof, should be filed under seal.

17 Accordingly, pursuant to Civil Local Rule 79-5(f), Mr. Musk files this Administrative
 18 Motion to consider whether the documents identified below should be sealed:

Exhibit	Document Title	Portion of Document to be Provisionally Sealed
Exhibit #3	Order Directing Private Investigation and Designating Officers to Take Testimony	Entire Document
Exhibit #5	Corrected Order Directing Private Investigation and Designating Officers to Take Testimony	Entire Document

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1 Should the Commission file a statement or declaration pursuant to Civil Local Rule 79-
2 5(f)(3), Mr. Musk reserves his right to file a response pursuant to Civil Local Rule 79-5(f)(4).
3 Consistent with Civil Local Rule 79-5(d), unredacted versions of the above documents accompany
4 this Administrative Motion.

Dated: November 2, 2023

Respectfully submitted,

QUINN EMANUEL URQUHART &
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